

FILED
 UNITED STATES DISTRICT COURT
 DISTRICT OF MASSACHUSETTS

2004 JUN -4 P 2:10

RECEIPT # 56342
 AMOUNT \$ 120
 SUMMONS ISSUED N/A
 LOCAL RULE 4.1
 WAIVER FORM
 JCF ISSUED
 DEPT. CLK. PR
 Civil Action No. 6-4-04

GERARDINE E. TILLEY,

Plaintiff,

v.

1836 COUNTRY STORE, 78TH STREET)
 PHARMACY (HALL'S), A COUNTRY)
 TOUCH, A&M DESIGN, ABIGAIL'S,)
 ACE HARDWARE & GIFT SHOPPE,)
 ADDIE'S HALLMARK, ADVANTAGE)
 WORLDWID INC., ALICIA'S ACCENTS,)
 ALTOONA DISCOUNT PHARMACY,)
 ALTRU HOSPITAL GIFT SHOP, ALWAYS)
 IN SEASON, AMISH ACRES, AMISH)
 BARN RESTAURANT AND GIFT SHOP)
 LLC d/b/a THE AMISH BARN, AMY'S)
 HALLMARK (HOOVER), ANDI'S)
 HALLMARK, ANN & HOPE INC., THE)
 APPLE CRATE, ASHLEY FURNITURE)
 HOME STORE, AUDREY'S, AUNT)
 ANGEL'S GIFT GALLERY, AUNT TILLIE'S)
 MARKET, BACK PORCH CARDS & GIFTS,)
 BAILEY'S HUTCH INC., THE BAKER'S)
 RACK, BARE WOODS, BAREWOOD, INC.,)
 BARTASH INC., BASICOS S.A., BASKET)
 EXPRESSIONS, A BASKET FULL,)
 BASKET-A-STAMPS, BASKETS &)
 HANDCRAFTERS, BEALL'S)
 DEPARTMENT STORES, BEAR)
 ESSENTIALS, BEAUFORT MEMORIAL)
 HOSPITAL GIFT STORE, BEEHIVE)
 INTERIORS, BENDIXEN'S GIFT WARE)
 (CLN), BERRY PATCH, THE BERRY)
 PATCH, BETTE'S HALLMARK,)
 BEVERLY'S HALLMARK, BILL'S FABRIC)
 INC., BLACK'S PAPER STORE & GIFT)
 SHOP, BLAKESTAD DRUG, BOB BOLEN'S)
 INC., BONNIE'S HALLMARK SHOP, BOOK)
 EMPORIUM-WAREHOUSE, BOONE)
 ENTERPRISES, BREWBAKER, BRIAR)
 PATCH STORES, BROADBENT & SON,)
 BROWN'S COUNTRY STORE, THE)
 BROWSING BARN, BURLINGTON COAT)

04

MAGISTRATE JUDGE Cohen

FACTORY WAREHOUSE CORPORATION,)
 BUTTERFIELDS, C & J CARDS, C&J)
 CAMERA, CALABASH NAUTICAL GIFTS,)
 CALICO CAT, CAMBRIDGE MEDICAL)
 CENTER, CAMPUS STORE, CANAL)
 TOWNE EMPORIUM, CANDLE ESCENTS,)
 CAPE MAY WICKER INC., CARDSMART,)
 CARDSMART/MAD LOVE CARDS,)
 CARLE HOSPITAL GIFT SHOP,)
 CARRIAGE HOUSE, CARRIE'S)
 HALLMARK, CARTER CANDLES, CEDAR)
 TRADING POST, CENTRAL BAPTIST)
 HOSPITAL GIFT SHOP, CHERRY WHEEL)
 GIFT SHOP, CHEVAL GIFTS,)
 CHEYENNE'S INC., CHILDERS AND)
 ASSOCIATES, CHINA SHOPS,)
 CHINCOTEAGUE PONY CENTRE, CHRIS')
 HALLMARK, CHRISTMAS TREE HILL)
 INC. d/b/a CHRISTMAS TREE HILL,)
 CHURCH OF HOPE, CINDY'S)
 HALLMARK, CITY DRUG STORE,)
 CLARK'S HALLMARK SHOP #1, CLASSIC)
 THYMES, CLINES HALLMARK,)
 COACHES TIME FOR FLOWERS, COAST)
 GUARD EXCHANGE, COLONIAL ART &)
 CRAFT SHOP, COLONIAL CLIPPER,)
 COLONIAL PEDDLER, COLONIAL)
 WOODWRIGHTS, COMING HOME TO)
 COUNTRY, COMI'S HMK PARTY SHOP,)
 COMM. MEDICAL CENTER GIFT SHOP,)
 CONNECTICUT MEMORIES,)
 CORINNTHIANS, COTTAGE GARDEN)
 FARM, THE COTTON GIN, COUNTRY)
 ACCENTS, COUNTRY ARTS &)
 ANTIQUES, COUNTRY BASKET INC.,)
 THE COUNTRY CAROUSEL, COUNTRY)
 CHARM, COUNTRY CLUTTER,)
 COUNTRY CLUTTER, COUNTRY)
 CLUTTER, COUNTRY CLUTTER)
 (GILROY), COUNTRY CLUTTER)
 (PETALUMA), COUNTRY COBWEBS)
 ARTISANS SAMPLE, COUNTRY)
 COLLECTIBLES, COUNTRY)
 COLLECTIONS INC., COUNTRY)
 COLONIAL SHOP, COUNTRY)
 CONSIGNMENTS, SHIRLEY GOFF d/b/a)

COUNTRY CREATIONS, COUNTRY)
 FRIENDS, COUNTRY HEARTS, COUNTRY)
 HERITAGE, COUNTRY NOTCH,)
 COUNTRY PEDDLER, THE COUNTRY)
 PEDDLER, COUNTRY PEDDLER (WA),)
 THE COUNTRY SHOPPE, COUNTRY)
 WOODSHOP, COVE HAVEN INC. d/b/a)
 COVE HAVEN RESORT and PARADISE)
 STREAM RESORT, COZY CORNER)
 CREATIONS, CRAFT WAREHOUSE #3,)
 CRAFTER'S ALLEY, CREAT-A-VISION,)
 CRICKET BOOKSHOP, FIELDMANN)
 WHOLESALE, INC. d/b/a CRIMSON RIDGE)
 FLORIST, CROW HAVEN FARM, THE)
 CURIOUS COW, CURTAINS UNLIMITED,)
 CYNTHIA'S CHOICE INC. d/b/a)
 CYNTHIA'S HALLMARK #1, DANA'S)
 HALLMARK, DEBBIE HUNTER'S)
 FLORIST, DECK THE WALLS,)
 DECORATING ON A STRING, DEERFIELD)
 STATION, DEE'S CRAFTS, DEE'S)
 HALLMARK, DELIGHTFUL IDEAS,)
 DESIGN CONNECTION INTERPRISES,)
 INC., DICK GIBSON & ASSOCIATES,)
 DISCOUNT DECORATING OUTLET,)
 DIVINITIES, DOBBS SALES CO., DONNAS)
 GIFTS & GALLERY, DONNA'S)
 HALLMARK, DOROTHY'S HALLMARK,)
 DOWN HOME DESIGNS, DREAMS IN THE)
 ATTIC, DUNLAPS/CLARK'S #17,)
 DUNLAPS/KERR'S #39, DUTCH INDOOR)
 VILLAGE, EARTHS TREASURES, EDGE)
 OF PARK, EDGEWATER GIFTS, EDWIN'S)
 GIFTS TOO INC., ELLIS POTTERY INC.,)
 ELLSWORTHS STATIONERS, ELMTREE)
 INC., ERIE ENTERPRISES, EVANGELICAL)
 COMMUNITY HOSPITAL, EVANSTON)
 HOSPITAL/WARM WISHES, EVERGREEN)
 CONSIGNMENT CO., EXETER HOSPITAL)
 GIFT SHOP, THE EXIT LTD,)
 EXPRESSIONS, FAMILY DRUG,)
 FARMHOUSE TREASURES, FASHION)
 JUNCTION, FASHION SHOP OF)
 KENTUCKY INC., THE FESSENDEN'S,)
 FIRESIDE FURNITURE, FIRST)
 IMPRESSIONS, FISHER PHARMACY,)

FLOWER HOSPITAL GIFT SHOP,)
 FLOWERS & GIFTS BY MOLLY,)
 FLOWERS WOOD BE NICE, FO'CASTLE)
 FARM INC. d/b/a FO'CASTLE FARM)
 COUNTRY STORE, FOCUS ATLANTA)
 INC., FOGGY MOUNTAIN GIFTS, FOR)
 KEEPS, FOUR SEASONS FLOWER SHOP,)
 FRIENDLY GIFT SHOP, FROLIC, FROM)
 THE HEART, THE FRONT PORCH, FRY)
 BROS. TURKEY ROAD, THE FUN SHOP,)
 GALLIE'S HALLMARK SHOP, THE)
 GARDEN PATCH, GARDINER'S)
 FURNITURE, GATHER ROUN' THE TREE,)
 GEORGETOWN AUTO SALES, GIFT &)
 BIBLE, GIFT BASKET, GIFT WRECKED,)
 GIFTS ON BROAD, GIFTWICK SHOP,)
 GIFTWICK SHOP BIRMINGHAM, GIFTY)
 BASKETS & FLOWERS, GINGERBREAD)
 HOUSE INC., GLENNA'S GARDEN,)
 GLENNIE'S HALLMARK, GLENS FALLS)
 HOSPITAL SHOP, GOLDEN HAND GIFTS,)
 GOLDEN PINEAPPLE, GOODARTS)
 GALLERY, GOOSE AND GANDER,)
 GRAPEVINE PANTRY & GIFT SHOP,)
 GREAT CHESAPEAKE BAY CO.,)
 GREETINGS & READINGS INC.,)
 GREGORY'S HALLMARK, GUNDERSON)
 LUTHERAN HOSPITAL, H & H CUSTOM)
 PRODUCTS, H G BUYING INC.,)
 HABERSHAM WINERY, HAFTA HAVIT,)
 HAMPTON ACCENTS, HANOVER)
 HALLMARK, HAPPINESS IS GIFT SHOP,)
 HAPPINESS SHOP, HAPPY'S HALLMARK,)
 HARBOR TOWNE GIFTS, HARKEN)
 HOUSE GIFT SHOP, HAVEY'S CARD &)
 PARTY SHOP INC., THE HAY SCALES)
 EXCHANGE, HEART & HOME, HEART TO)
 HEART GIFTS, HELLO CORP. of)
 PENNSYLVANIA, THE HERB COTTAGE,)
 HIRONS, HOME HARDWARE, INC.,)
 HOME N' GIFTS, HOME PASSAGES)
 ANTIQUES, HOME TREASURES LTD.,)
 HOMECRAFTER'S GALLERY, HOODS)
 ACE HARDWARE, HOPKINTON DRUG &)
 HALLMARK, HORIZONS, HORROCKS)
 FARM MARKET INC., HOSPITALITY)

PRODUCTS, HUCKLEBERRY'S,)
 INTRINSIC, JAKE'S COUNTRY TRADING)
 POST, JANINE'S HALLMARK, JAN'S TEA)
 SHOPPE, JEFF KRAMER, JENIFER'S)
 HALLMARK, JIM MILLER'S HALLMARK)
 FURNITURE, JODI'S)
 HALLMARK/TRENDS, JOHN H. EVANS)
 CO., JOHN MAMONE, JOHNNIE BROCK'S,)
 INC., JOHNSTON'S HALLMARK, JOSEPH)
 CORMIER & ASSOCIATES, JOURNEY'S)
 END, JOYWORKS, JUANITA MARKETS,)
 JUNIOR BOARD SHOP, JUST DUCKY,)
 JWT STORES, KAISER GIFT SHOP,)
 KATE'S HALLMARK SHOP, KATHRYN'S)
 GIFT SHOP, KATHY'S GIFTS BY DESIGN,)
 KATHY'S HALLMARK, KEEPSAKES ETC.,)
 KERCHNER'S HALLMARK, KIBAK FINE)
 DESIGN, KIRKLAND'S INC., KITCHEN)
 STUFF ETC., KLINKS DRUG STORE,)
 KNOCK ON WOOD, KOUNTRY KIN)
 FOLK, KRISTIN MICHAEL'S, LAIR'S)
 HALLMARK CENTER, LAKES REGIONAL)
 HOSPITAL, LAMBRECHT'S, LASTING)
 IMPRESSION, LAWSON HILL SAMPLER)
 SHOP, LEESBURG PHARMACY INC.,)
 LEO'S FASHIONS, LEWIS NEWS)
 AGENCY, LINCOLN DEVELOPMENT)
 COMPANY INC., LINDEN INC., LINEHAN)
 LLC d/b/a LINEHAN HALLMARK, THE)
 LLOYD CO., LOCK STOCK & BARREL)
 GIFT, LOCK STOCK & BARRELL,)
 LOCUST VALLEY FLORIST, THE LOGAN)
 HOUSE, LONGS DRUG STORE, LONGS)
 DRUG STORE #205, LORRAINE'S, LOST)
 CREEK, LOU'S SIMPLE COUNTRY,)
 LOVEGROVES WHOLESALE, LUCINDAS)
 COUNTRY CRAFTS, LYNN'S HALLMARK,)
 LYNN'S HALLMARK, LYNN'S)
 HALLMARK, LYNN'S HALLMARK,)
 LYNN'S HALLMARK, LYNN'S)
 HALLMARK SHOP, M T HUNTER)
 COUNTRY STORE, MADE IN USA CRAFT)
 MALL, MAGNA KINGSTON, MAIL)
 BOXES ETC., MAIN STREET FLORAL &)
 GIFT, MAINE MADE SHOP, WOMEN'S)
 BOARD OF MAIN GENERAL HOSPITAL)

DBA MAINE MEDICAL CENTER GIFT)
 SHOP, MAINELY QUILTS, MAINLY)
 PHOTOS, MAKEFIELD COLLECTION)
 INC., MALL STORE/MINUTEMAN REG.,)
 MAPLE COTTAGE, MARGIE'S VITAMINS)
 & CHRISTIAN, MARK'S GARDEN)
 CENTER, MARTHA'S BOOKSTORE,)
 MARTIN'S HALLMARK SHOPS,)
 MARTIN'S SOUTH GATE DRUG,)
 MARUKAI CORPORATION, MAXFIELD'S)
 GIFTS, MCDANIEL'S DO IT CENTER,)
 MCHARRIS GIFT CENTER INC.,)
 MCKENZIE PLACE INC., MCMANUS)
 GIFTS, MENDON MOUNTAIN)
 ORCHARDS, MERRY-GO-ROUND,)
 METRO OFFICE SUPPLY, MINCH)
 HARDWARE & APPLIANCE, MISHMASH,)
 MISSY'S HOUSE, MOELLER VARIETY &)
 GIFT, MOLLY KATES, MONTGOMERY)
 GENERAL HOSPITAL GIFT SHOP,)
 MOORE FROM THE HEART, MORGAN'S)
 GIFTS & ACCESSORIES, MORSE FARM)
 INC., MORTON GIFTS, MOSTLY MAINE,)
 MOUNTAIN VILLAGE GIFT, MYSTIC)
 SEAPORT MUSEUM, INC., NATURAL)
 HABITAT, NEW BRITAIN GENERAL)
 HOSPITAL, NEW OLD STUFF, NICOLE'S)
 HALLMARK, NORMAN'S GIFT SHOPS)
 INC., NORTHAMPTON NURSERY INC.,)
 OAK TREE FURNITURE, OLD)
 APPLETREE, OLD TIME POTTERY INC.,)
 OLDE SETTLEMENT L&S, OUTER BANKS)
 MEMORIES, P&L SALUTATION INC. d/b/a)
 P&L HALLMARK, PALMERTON)
 PLUMBING HEATING, PAM'S)
 HALLMARK, THE PAPER MILL, PARTY)
 PALACE, PARTY WITH HALLMARK #103,)
 PATRICK'S INC., PAT'S HALLMARK, HIS-)
 HER ENTERPRISES INC. d/b/a PAT'S)
 HALLMARK SHOP, PATTERSON'S)
 FLOWERS, PATTON PHARMACY TRUE)
 VALUE, THE PEAR TREE, PEEBLES INC.,)
 PEGGY'S PLACE, PETERSEN & TIETZ,)
 PETERSONS COUNTRY COLLECTIBLES,)
 PHARMACY PLUS, THE PHELPS MILL)
 STORE, PICADILLY FLOWERS, THE)

PICKET FENCE, PICTURES UNIQUE AND)
 GIFTS, PILL BOX, PINE RUN, THE PINK)
 SMOCK SHOP, PINNACLE PEDDLER, THE)
 PLEASANTREE, POOR RICHARD'S,)
 PORTEOUS #53, PORTEOUS #57, POT)
 POURRI GIFTS INC., PRAIRIE HOUSE,)
 PRICKLEY PEAR GIFTS, PUFFINS NEST,)
 PURCELLVILLE PHARMACY, QUAIN)
 THINGS, RAINBOW OMEGA INC. d/b/a)
 RAINBOW GARDEN CENTER, RAMONA)
 INTERIORS, RAQUEL SIMAN DE)
 SAMOUR, RED BALLOON GIFT SHOP,)
 RED COVERED BRIDGE SHOP, THE RED)
 GERANIUM CORP., REDDON'S DRUGS,)
 REMEMBERING YOU INC., REYNOLDS)
 BROS. INC., RIBBONS INC., RICHLAND)
 VILLAGE SUNDRIES, RIVER ROCK)
 GIFTS, ROBINSON HOUSE GALLERIES,)
 ROBINSON RETAIL ENTERPRISES,)
 ROCKING HORSE CLASSICS,)
 RODICHOKS FARM MARKET, ROLEY'S)
 GIFTS AND BOOKS, INC. d/b/a ROLEY'S)
 HALLMARK, RONTINA'S OF NEW YORK,)
 ROSEMARY'S HALLMARK, ROWE)
 POTTERY WORKS INC., ROYAL TOWNE)
 GIFTS, RUFFLES & TREASURES,)
 RUSSEL'S GARDEN CENTER, RUSTIC)
 HUTCH, THE RUSTY NAIL, SALAMACKS)
 CARD & GIFT, SAND DOLLAR,)
 SCARBOROUGH FAIR, SCOTTS FLORAL)
 & GIFTS, SEASONAL TRADITIONS,)
 SEBASCO SEA CHEST, THE)
 SEEDPLANTER, SENTIMENTS, SEVEN)
 COUNTRY DUCKS, SHERMANS, SHOP IN)
 THE VALLEY, SHOPPE KEEPER, SILVER)
 MINE, SILVERMINE TAVERN COUNTRY)
 STORE, SIMPLY AMISH, SMI)
 ASSOCIATES, SOMETHING SPECIAL,)
 SOUTHWICK FARM ANTIQUES, SPAG'S)
 SUPPLY INC., THE SPOTTED GIRAFFE,)
 ST. JOSEPH MEDICAL CENTER, ST.)
 MARY MEAD, ST.MARY'S GIFT SHOP,)
 STARBUCK COMPANY, STARK COUNTY)
 HISTORICAL, STEVEN'S FLORAL,)
 STORMANS INC., STRANG HATCHER)
 CORP., STRAWBERRY TREE, STRICTLY)

VERMONT, STUDENT BROOK CORP.,)
 SUGAR CREEK, SURROUNDINGS,)
 SWEET ANNIE, SWEET CECILY'S,)
 SWEZEY & NEWINS INC., TOGHM INC.,)
 TAKE CARE OF YOU, TER HAR'S, TES)
 INC., THE FABRIC HUT & GIFT)
 GALLERY, THEDA CLARK RMC GIFT)
 SHOP, THREE FRENCH HENS,)
 THUNDERBIRD GIFT SHOP, TINA'S)
 HALLMARK-BOUNTIFUL, TOLE N)
 TRINKETS, TOP O'THE THUMB,)
 ANNANDALE CRAFTS INC. d/b/a TOTAL)
 CRAFTS, TOWN & COUNTRY, TOWN)
 CRIER GIFT SHOP, TRADITIONAL)
 EUROPEAN PINE, TRAMWAY ARTISANS,)
 TREASURES FROM THE HEART, TRENDS)
 GIFT GALLERY, TRINKETS &)
 TREASURES, TWIG GIFT SHOP, TYE)
 ASSOCIATES INC., UNIVERSITY OF)
 IOWA, UTOPIA, VALLEY LUTHERAN)
 HOSP. GIFT SHOP, VERMONT HERITAGE)
 GIFT & CRAFT CENTER, VERMONT)
 HOME BAKERY LTD., VERMONT)
 PRESENCE, VERN'S WINSLOW DRUG,)
 VILLAGE GREENERY, VILLAGE OF COL.)
 PEDDLERS, VILLAGE PEDDLER,)
 VILLAGE SHOPKEEPER, VILLAGE)
 STORE, VINES AND STUFF, THE)
 VINTAGE SHOPPES, WAGON TRAIL,)
 WAL-BEN INC., WALROD'S HARDWARE,)
 THE WARM HEARTH, WEINBACH'S,)
 WELCOME HOME INC., THE WHAT NOT)
 SHOP, WHAT'S NEW IN GIFTS INC.,)
 WHEEL HOUSE OF GIFTS, WHERE ELSE,)
 PARKER TRAVEL INC. d/b/a WHERE IN)
 THE WORLD, WHIMSICAL GALERIE,)
 WHITTWOOD CAR WASH, WILD IRIS,)
 WILLIAMSBURG GEN. STORE, WILLOW)
 TREE, WINDSONG COUNTRY STORE,)
 WISCASSET HARDWARE CO. INC.,)
 WOMEN'S AUXILLIARY GIFT SHOP,)
 WRAGGLE PHARMACY, WYCKOFF)
 PEDDLERS, YORK HOSPITAL)
 AUXILLIARY GIFT SHOP.)

Defendants.)

04

COMPLAINT FOR DAMAGES AND INJUNCTION
(Jury Trial Demanded)

INTRODUCTION

1. In this action, plaintiff Gerardine E. Tilley ("Ms. Tilley") seeks damages from the defendants listed in the caption ("defendants") for their infringement of a copyrighted design registered to Ms. Tilley. Ms. Tilley also seeks, among other things, an accounting from those defendants not yet providing one and an injunction restraining all of the defendants from engaging in any further acts in violation of the copyright laws.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331, inasmuch as the Plaintiff is asserting a claim arising under 17 U.S.C. § 1 *et seq.*, the Copyright Act of the United States, as amended (hereinafter the "Copyright Act").

3. Venue of this action in this Court is proper under both 28 U.S.C. § 1400(a) and 28 U.S.C. § 1391(a)(2), (b) and (c) for the following reasons: several of the defendants maintain principal places of business in Massachusetts; all of the defendants are subject to personal jurisdiction in this judicial district as businesses who have transacted business in Massachusetts and have sufficient contacts with Massachusetts; a substantial part of the events and omissions giving rise to Ms. Tilley's claims occurred in this judicial district; and a substantial part of the property that is the subject of this action is situated in this judicial district.

PARTIES

4. Ms. Tilley is a natural person residing at 902 Union Street in Duxbury, Massachusetts.

5. The defendants are all businesses who have transacted business in Massachusetts and have sufficient contacts with Massachusetts to subject them to the requirements for personal jurisdiction in this judicial district.

FACTS

6. Ms. Tilley is a professional graphic artist.

7. On or about November 1, 1996, Ms. Tilley published a wallpaper design entitled "Harbortown Border," which was wholly original and copyrightable under the laws of the United States.

8. On September 10, 1999, pursuant to Ms. Tilley's application, the Register of Copyrights for the United States Copyright Office issued a Certification of Registration (No. VA 999-489) for Harbortown Border.

9. At all relevant times Ms. Tilley has been and is the sole proprietor of all right, title, and interest in and to the copyright in Harbortown Border. Ms. Tilley has produced and distributed Harbortown Border in strict conformity with the provisions of the Copyright Act and all other laws governing copyright.

10. Ms. Tilley has discovered that defendants have been distributing, promoting, or selling items decorated with Ms. Tilley's Harbortown Border.

11. The distribution, promotion, or sale by defendants of items decorated with Ms. Tilley's Harbortown Border has been without the knowledge or consent of Ms. Tilley and has infringed her copyright.

12. The natural, probable, and foreseeable result of defendants' wrongful conduct has been and will continue to be to deprive Ms. Tilley of the benefits of selling Harbortown Border,

to deprive Ms. Tilley of goodwill, and to injure Ms. Tilley's relations with present and prospective customers.

13. Ms. Tilley has made or attempted to make demands for accountings from most or all of the defendants. To date, most of the defendants have failed to make accounting to Ms. Tilley for the infringing items they, and each of them, sold.

14. Ms. Tilley has lost and will continue to lose substantial revenues from the defendants' sale of infringing items and will continue to sustain damage as a result of defendants' wrongful conduct.

15. As a direct and proximate result of the defendants' acts or omissions, Ms. Tilley has already suffered damage and has sustained lost profits.

**COUNT I
(Copyright Infringement—All Defendants)**

16. Ms. Tilley incorporates the allegations of paragraphs 1 through 15, inclusive.

17. Defendants have infringed and will continue to infringe Ms. Tilley's copyright in and relating to Harbortown Border in violation of 17 U.S.C. § 501(a).

18. As a direct and proximate result of defendants' copyright infringement of Ms. Tilley's Harbortown Border, Ms. Tilley has suffered and will continue to suffer substantial loss and injury.

RELIEF REQUESTED

WHEREFORE, Ms. Tilley requests that this Court:

- A. Find in her favor on Count I;
- B. Permanently enjoin and restrain defendants, their divisions, officers, agents, and employees, and all other persons acting in concert with them, from:

- (1) imitating, copying, or making unauthorized use of Ms. Tilley's registered Harbortown Border design;
- (2) manufacturing, producing, distributing, circulating, selling, offering for sale, advertising, promoting, or displaying any product bearing any simulation, reproduction, counterfeit, copy, or colorable imitation of Ms. Tilley's registered Harbortown Border design; and
- (3) using any simulation, reproduction, counterfeit, copy, or colorable imitation of Ms. Tilley's registered Harbortown Border design in connection with the manufacture, production, distribution, circulation, sale, offering for sale, advertisement, promotion, or display any product;

C. Direct that the defendants deliver for destruction all products, labels, signs, prints, packages, dies, wrappers, receptacles, advertisements, and any other items in their possession or under their control infringing upon Ms. Tilley's registered Harbortown Border copyright;

D. Direct all defendants that have not done so to account for all gains, profits, and advantages derived by defendants through their infringement of Ms. Tilley's copyright;

E. Direct all defendants to relinquish to Ms. Tilley all gains, profits, and advantages derived by defendants through their infringement of Ms. Tilley's copyright;

F. Direct that the defendants pay to Ms. Tilley such damages as she has sustained as a consequence of defendants' infringement of Ms. Tilley's copyright;

G. Award Ms. Tilley the costs of this action, together with reasonable attorneys fees;

H. Award to Ms. Tilley prejudgment interest;

I. Award to Ms. Tilley such other and further relief as the Court deems proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Ms. Tilley hereby demands trial by jury for all counts in this action which can be so tried.

The Plaintiff,
GERARDINE E. TILLEY,
By Her Attorneys:

Dated: June 2, 2004

A handwritten signature in cursive script, appearing to read "Sandra J. Staub", is written over a horizontal line.

James C. Duda
BBO No. 551207
Sandra J. Staub
BBO No. 555544
Bulkley, Richardson and Gelinas, LLP
1500 Main Street, Suite 2700
Springfield, MA 01115-5507
Tel.: (413) 781-2820
Fax: (413) 272-6253

JS 44 (Rev. 3/99)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Gerardine E. Tilley

(b) County of Residence of First Listed Plaintiff Plymouth County, MA
(EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

1836 Country Store, et al.
(see attached list for additional defendants)

County of Residence of First Listed _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

James C. Duda, Esq. / Sandra J. Staub, Esq.
Bulkeley, Richardson and Gelinas, LLP
1500 Main Street, Suite 2700
Springfield, MA 01115 (Tel. (413) 781-2820)

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☐ 1 ☐ 1 Incorporated or Principal Place of Business in This State ☐ 4 ☐ 4
- Citizen of Another State ☐ 2 ☐ 2 Incorporated and Principal Place of Business in Another State ☐ 5 ☐ 5
- Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury Med. Malpractice <input type="checkbox"/> 365 Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input checked="" type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIW C/DIW W (405(g)) <input type="checkbox"/> 864 SSD Title XVI <input type="checkbox"/> 865 RS1 (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) _____ ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Copyright infringement under 17 U.S.C. § 501.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions): Gerardine E. Tilley v. The TJX Companies, Inc. et al.

JUDGE E. Nancy Gertner

DOCKET NUMBER 00-12623-NG

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS1. Title of case (name of first party on each side only) Gerardine E. Tilley v. The TJX Companies, Inc. et al.

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

- ☐ I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.
- ☒ II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950. *Also complete AO 120 or AO 121 for patent, trademark or copyright cases
- ☐ III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- ☐ IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- ☐ V. 150, 152, 153.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

Gerardine E. Tilley v. The TJX Companies, Inc. et al., Docket No. 00-12623-NG

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES ☐ NO ☒

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES ☐ NO ☒

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES ☐ NO ☒

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES ☐ NO ☒7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).YES ☐ NO ☒A. If yes, in which division do all of the non-governmental parties reside?Eastern Division ☐ Central Division ☐ Western Division ☐

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division ☒ Central Division ☐ Western Division ☐8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions) N/AYES ☐ NO ☐

(PLEASE TYPE OR PRINT)

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